



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 7, 1995

Mr. James R. Raup
McGinnis, Lochridge & Kilgore
1300 Capitol Center
919 Congress Avenue
Austin, Texas 78701

OR95-111

Dear Mr. Raup:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30321.

The Round Rock Independent School District (the "district"), which you represent, received several open records requests for records pertaining to challenges of the appropriateness of certain educational materials currently being taught at Westwood High School (the "high school"). You have submitted to this office as responsive to the requests copies of "Citizen's Request for Reconsideration of Instructional Materials," with addenda. You inquire whether the district is required to withhold these records pursuant to section 552.114 of the Government Code or the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g.

With certain exceptions not applicable here, section 552.114 prohibits the release of all student records. The term "student record" in this provision generally includes information concerning the student himself and his individual relationship to the educational institution. See Open Records Decision No. 612 (1992) at 2 (quoting Attorney General Opinion H-447 (1974)). Further, section 552.026 of the Government Code provides as follows:

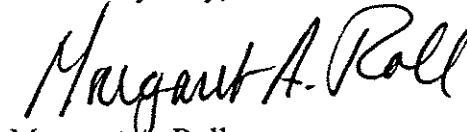
This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information (other than directory information) contained in a student's education records to anyone but certain numerated federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. *See* 20 U.S.C. § 1232g(b)(1). "Education records" are those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. *Id.* § 1232g(a)(4)(A).

For purposes of section 552.114 of the Government Code and FERPA, the request for reconsideration that was completed by a student constitutes an education record of that student which must be withheld in its entirety. *See* Open Records Decision No. 224 (1979) (students' handwritten comments protected under FERPA). However, this office could identify only small portions of the other completed request forms that could be construed as being directly related to particular students. We have marked the portions of the other completed forms and addenda that the district must withhold. The remaining information in these forms constitutes neither "student records" nor "education records" in that none of this information directly relates to an identifiable student but rather merely reflects concerns about a particular aspect of the high school's curriculum; consequently, the remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/RWP/rho

Ref.: ID# 30321

Enclosures: Marked documents

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